

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW MEXICO**

**Clerk's Minutes
Before the Honorable James O. Browning**

CASE NO. CR 19-77JB

DATE: July 16, 2019

TITLE: *USA v. Michael Nissen*

COURTROOM CLERK: C. Bevel

COURT REPORTER: J. Bean

COURT IN SESSION: 10:20AM-11:06AM

TOTAL TIME: 48 MINUTES

TYPE OF PROCEEDING: COMPETENCY HEARING; [26](#) First MOTION for Reconsideration *Motion to Reconsider Detention Order and Request for Hearing*; [22](#) MOTION for Bill of Particulars

COURT RULING: Court finds defendant competent to proceed to trial. Court denies Request for Conditions of Release, [Doc 26]; Court denies [22](#) MOTION for Bill of Particulars

ATTORNEYS PRESENT FOR PLAINTIFF(S): **ATTORNEYS PRESENT FOR DEFENDANT(S):**

Paul Mysliwicz

Kenneth Gleria

PROCEEDINGS:

10:20am Court in session, counsel enter appearances, Court has reviewed report of Dr. Marshall, counsel stipulate to defendant's competency, Court requests US Attorney provide a stipulated order finding defendant competent.

10:23am Mr. Gleria addresses defendant's placement in solitary confinement; protective custody, hampering communication.

10:25am Court recommends Mr. Gleria talk to CRD as to who to contact at USM regarding defendant's placement.

10:26am Mr. Gleria will be requesting continuance of trial date of 2 weeks.

10:27am Mr. Mysliwicz responds, no opposition to continuances, several motions pending which toll the speedy trial time, several motions in limine will be filed. Jury instructions to be filed.

10:29am Court will await motion and proposed order that complies with Hernandez-Mejia.

Court turns to pending Motions, appear to be fully briefed.

10:30am Mr. Gleria indicates he was not the author if 2 of the Motions to Dismiss.

10:30am Court takes up motions one at a time.

10:31am Mr. Gleria argues in support of Motion to Reconsider Detention [Doc. 26].

10:37am Mr. Mysliwiec responds.

10:43am Mr. Gleria responds.

10:45am Mr. Mysliwiec argues in support of defendant's continued custody.

10:47am Court is concerned that defendant remains threat to community.

10:48am Court denies request to set conditions of release, Magistrate Judge is correct, defendant should remain in custody.

10:50am Mr. Gleria argues [22](#) MOTION for Bill of Particulars.

10:54am Mr. Mysliwiec responds, request dismissal as untimely.

10:58am Court inquires about any further discovery that many be coming.

10:58am Mr. Mysliwiec responds, has requested phone record data showing interstate commerce, attached data to response to Motion to Dismiss for Lack Jurisdiction.

10:59am Court inquires if there is anything else that may surprise defendant that government has not disclosed.

11:00am Mr. Mysliwiec responds, defendant has everything government has.

11:01am Court denies Motion for Bill of Particulars.

11:01am Mr. Gleria requests that Mr. Mkhitarian be allowed to argue the motions to dismiss as he is the author.

11:02am Mr. Mysliwiec has no objection.

11:04am Court indicates Friday, July 26 at 10:00 am may be best time to hear motions to

dismiss. May be best time to have a pretrial conference.

11:04am Mr. Mysliwiec responds.

11:06am Court will hold motions hearing and pretrial conference on July 26 at 10:00 am.

11:06am Court in recess.